

REMARKS

Claims 17-32 are present within this application. No claims have been amended, added, or cancelled.

The Office has now rejected Claims 17-32 under 35 U.S.C. § 103(a) as being unpatentable over Sawan et al. in view of Young, Sr. et al. Applicants strongly and vehemently disagree with the basis of this improper rejection. In a previous submission, Applicants supplied proper declaratory evidence to show that what Sawan et al. felt was the best overall embodiment in terms of an organic matrix for the durable topical application of biocides to substrates did not function to the same extent as required within the pending claims. The Office agreed by removing such a reference as prior art as a result. Now, the Office has returned to this inapplicable patent to find that the claims as amended by merely including the fact that a binder material of a certain type is present are unpatentable in view of such a primary reference. Why would Sawan et al. be inapplicable over broader claims but now be applicable over these narrower claims?

Applicants properly supplied the aforementioned declaratory evidence (Rule 132 Declaration of David Green) analyzing the preferred embodiment (biguanide matrix) with unreasonably higher amounts of silver iodide than were exemplified by Sawan et al. for silver retention durability after laundering (as required by the pending claims). The results showed that silver retention on the surface could not meet the same required durability levels now present within the claims of this application, no matter how much silver iodide was initially present. That was all Applicants were required to do. They have already met their burden of showing the

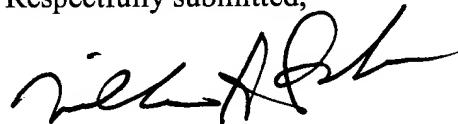
inapplicability of Sawan et al. over their claims. There is simply no basis for Applicants to now compare the resultant materials of the combined teachings of the cited primary and secondary references. It is evident that, particularly in view of the above-noted Green Declaration, Applicants discovered unexpectedly improved silver retention after repeated launderings as compared with Sawan et al.'s materials. Thus, the only way it can now be found that replacing Sawan et al.'s preferred biguanide "binder" (which, again, could not perform at the same level as is now required by the present claims) with any other type of binder is a clear exercise of hindsight reconstruction of Applicants' own teachings. Regardless of Young, Sr. et al.'s teachings, the fact that Sawan et al. specifically taught that their best results for non-leaching and loss of biocide (silver iodide, in this instance) were provided by the already-tested biguanide "binder", it is clear that Applicants have overcome any basis of rejection involving this primary reference. Thus, the present basis of rejection should be withdrawn and Applicants respectfully request that such be performed with all speed.

CONCLUSION

In view of the remarks presented above, it is respectfully submitted that no proper rejections remain over the pending claims and that this application be passed on to issue.

Respectfully submitted,

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CERTIFICATE OF MAILING

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